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DOCKET NO: C01104/70015

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Kevin J. Dowling et al.  
Serial No: 09/805,368  
Confirmation No: 1552  
Filed: March 13, 2001  
For: LIGHT-EMITTING DIODE BASED PRODUCTS

Examiner: David Hung Vu  
Art Unit: 2828

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**CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)**

The undersigned hereby certifies that this document is being placed in the United States mail with first-class postage attached, addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the 25 day of January, 2005.

  
\_\_\_\_\_  
Jeanne W. Chub

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Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

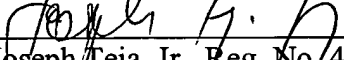
Transmitted herewith are the following documents:

- ☒ Information Disclosure Statement, PTO Form 1449 and Cited References
- ☒ Return Receipt Postcard

If the enclosed papers are considered incomplete, the Mail Room and/or the Application Branch is respectfully requested to contact the undersigned at (617) 395-7000.

A check for \$180.00 is enclosed. If the fee is insufficient, the Commissioner is hereby authorized to charge Deposit Account No. 50/2762. A duplicate of this sheet is enclosed.

Respectfully submitted,  
Kevin J. Dowling et al., Applicants

By:   
\_\_\_\_\_  
Joseph Teja, Jr., Reg. No. 45,157  
LOWRIE, LANDO & ANASTASI, LLP  
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(617) 395-7000

Date: January 25, 2005



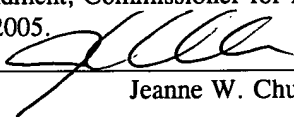
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Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**STATEMENT FILED PURSUANT TO THE DUTY OF  
DISCLOSURE UNDER 37 CFR §§1.56, 1.97 AND 1.98**

Sir:

Pursuant to the duty of disclosure under 37 C.F.R. §§1.56, 1.97 and 1.98, the Applicant requests consideration of this Information Disclosure Statement.

**PART I: Compliance with 37 C.F.R. §1.97**

This Information Disclosure Statement has been filed more than three months after the filing date of this application and after the mailing date of the first Office Action, but before the mailing date of either a final action under 37 C.F.R. §1.113 or a Notice of Allowance under 37 C.F.R. §1.311, or an action that otherwise closes prosecution in this application.

The fee of \$180.00 as set forth in 37 C.F.R. §1.17(p) is enclosed.

PART II: Information Cited

The Applicant hereby makes of record in the above-identified application the information listed on the attached form PTO-1449 (modified). The order of presentation of the references should not be construed as an indication of the importance of the references.

The Applicants also wish to bring to the attention of the Examiner the following information:

Pursuant to MPEP §2001.06(c), Applicants bring to the Examiner's attention that two U.S. patents relating to the present application have been involved in litigation. These patents include U.S. Patent No. 6,016,038 and U.S. Patent No. 6,150,774, assigned to Color Kinetics, Inc. The present application is entitled to the benefit of at least one of these two patents, under 35 U.S.C. §120.

The aforementioned patents both are involved in the litigation Case No. 02 CV 11137MEL in the United States District Court, District of Massachusetts.

Applicants acknowledge the duty to disclose to the U.S. Patent Office material information that may arise from these litigations, including evidence of possible prior public use or sales, questions of inventorship, prior art, allegations of "fraud," "inequitable conduct," and "violation of duty of disclosure," or any assertion which is contradictory to assertions made to the Examiner during prosecution of the present application.

To this end, Applicants wish to make of record in the present application the following document from the litigations, together with all exhibits filed therewith: PRELIMINARY EXPERT WITNESS REPORT OF DR. DAVID I. KENNEDY PREPARED AND SUBMITTED ON BEHALF OF SUPER VISION INTERNATIONAL, INC.

Applicants make no representation that the above-identified document(s) provide information material to the examination of the present application. Applicants make these documents of record in the present application primarily for completeness to facilitate the Examiner's understanding of the nature of the litigation. The Examiner is urged to form his or her own conclusion regarding the relevance of the information contained in these documents.

PART III: Remarks

Documents cited anywhere in the Information Disclosure Statement are enclosed unless otherwise indicated. It is respectfully requested that:

1. The Examiner consider completely the cited information, along with any other information, in reaching a determination concerning the patentability of the present claims;
2. The enclosed form PTO-1449 be signed by the Examiner to evidence that the cited information has been fully considered by the Patent and Trademark Office during the examination of this application;
3. The citations for the information be printed on any patent which issues from this application.

By submitting this Information Disclosure Statement, the Applicant makes no representation that a search has been performed, of the extent of any search performed, or that more relevant information does not exist.

By submitting this Information Disclosure Statement, the Applicant makes no representation that the information cited in the Statement is, or is considered to be, material to patentability as defined in 37 C.F.R. §1.56(b).

By submitting this Information Disclosure Statement, the Applicant makes no representation that the information cited in the Statement is, or is considered to be, in fact, prior art as defined by 35 U.S.C. §102.


Notwithstanding any statements by the Applicant, the Examiner is urged to form his own conclusion regarding the relevance of the cited information.

An early and favorable action is hereby requested.

Respectfully submitted,  
*Kevin J. Dowling et al., Applicants*

By: 

Joseph Teja, Jr., Reg/ No. 46,157  
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One Main Street  
Cambridge, Massachusetts 02142  
Tel. (617) 395-7000

January , 2005

JAN 27 2005  
EXAMINER & TRADEMARK OFFICE

<b>FORM PTO-1449/A and B (Modified)</b>  <b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b>				APPLICATION NO.: 09/805,368		ATTY. DOCKET NO.: C01104/70015	
				FILING DATE: March 13, 2001		CONFIRMATION NO.: 1552	
				APPLICANT: Kevin J. Dowling et al.			
				GROUP ART UNIT: 2828		EXAMINER: David Hung Vu	
Sheet	1	of	1				

**U.S. PATENT DOCUMENTS**

Examiner's Initials	Cite No.	U.S. Patent Document		Name of Patentee or Applicant of Cited Document	Date of Publication or of issue of Cited Document MM-DD-YYYY
		Number	Kind Code		

**FOREIGN PATENT DOCUMENTS**

FOREIGN PATENT DOCUMENTS							
Examiner's Initials	Cite No.	Foreign Patent Document			Name of Patentee or Applicant of Cited Document (not necessary)	Date of Publication of Cited Document MM-DD-YYYY	Translation (Y/N)
		Office/ Country	Number	Kind Code			
		JP	9139289			05-27-1997	Yes

**OTHER ART — NON PATENT LITERATURE DOCUMENTS**

Examiner's Initials#	Cite No	Include name of the author (in CAPITAL LETTERS) title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, relevant page(s), volume-issue number(s), publisher, city and/or country where published.	Translation (Y/N)	
		Color Kinetics v. Super Vision International, Inc., "Preliminary Expert Witness Report of Dr. David I. Kennedy Prepared and Submitted on Behalf of Super Vision International, Inc.," United States District Court of Massachusetts Case No. 02 CV 11137 MEL.		
		G. MacGregor et al., "Solid-State Displays for CRT Replacement in Data Annotation Systems," Optotek Limited, Proceedings, IEEE-SID Conference on Display, Devices and Systems, 1974, Washington, DC, pp. 59-65.		
		P.G. Wareberg and D.I. Kennedy, "Flat-Panel Video Resolution LED Display System," Optotek Limited, IEEE, 1982, pp. 746-751.		
		R.J. Spiger, "LED Multifunction Keyboard Engineering Study," June 1983.		
		D. Effer et al., "Fabrication and Properties of Gallium Phosphide Variable Colour Displays," July 1973.		
		Optotek Limited, Technical Manual for Multicolor Interactive Switch Module AN-601 and Input Simulator AN-600, September 1986.		
		Des Keppel, "Tech Tips, Pulse Adding Circuit," ETI November 1986		
		Neil Muir, "Dual Colour LED Driver," ETI November 1986		
		Multicolour Pendant, Maplin Magazine, Dec. 1981.		
		"Solid-State Dark Room Lighting," Elektor, October 1983.		
		Open Letter to the USPTO, October 14, 2004, <a href="http://www.artisticlicense.com/app.notes/appnote027.pdf">http://www.artisticlicense.com/app.notes/appnote027.pdf</a>		
		<a href="http://www.artisticlicense.com/appnotes/appnote015.pdf">http://www.artisticlicense.com/appnotes/appnote015.pdf</a> , pp. 1-17.		

EXAMINER	DATE CONSIDERED
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#EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.